

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

ZAUSNER FOODS CORP., a Delaware
corporation,

Plaintiff,

v.

Case No. 22-22660-Civ-KMM

CLAUDE BLANDIN, BRUNO BLANDIN,
PATRICK BLANDIN, and ARNO LEONI,
individuals, and JOHN DOE DEFENDANTS 1-
10,

Defendants.

JOINT MOTION TO WAIVE HAGUE CONVENTION REQUIREMENTS

Plaintiff Zausner Foods Corp. (“Plaintiff”) and Defendants Claude Blandin, Bruno Blandin, Patrick Blandin, and Arno Leoni (“Defendants,” together with Plaintiff the “Parties”) hereby respectfully and jointly move this Court to waive Hague Convention requirements.

1. Intent. The intent of this motion is to streamline the gathering and admission of evidence in this action, including, without limitation, with respect to the gathering and admission of evidence located, or arising from, outside of the United States. The parties intend that, unless expressly prohibited by applicable law, all discovery in this action shall be conducted pursuant to the Federal Rules of Civil Procedure, the Federal Rules of Evidence, and related case law, without giving effect to the provisions of the Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters (the “Hague Convention”).

2. Hague Convention Not Applicable. The Parties agree to take depositions in France and Guadeloupe outside of the requirements and procedures of the Hague Convention, which the Parties explicitly agree shall not apply to this action, and all discovery matters, including but not

limited to depositions, in this action shall be governed entirely by the Federal Rules of Civil Procedure, the Federal Rules of Evidence, and related case law.

3. Specific Depositions. In the effort to facilitate the progress of discovery in this action, the Parties have agreed that the depositions of Alex Bongrain and Pierre Ragnet (“Plaintiff Witnesses”) will be taken at the Paris office of Morgan Lewis & Bockius, LLP, and the depositions of Bruno Blandin, Claude Blandin, Patrick Blandin, and Arno Leoni will be taken in the French territory of Guadeloupe or Paris, outside of the restrictions of the Hague Convention. It is specifically agreed that absent the agreement that Alex Bongrain and Pierre Ragnet will voluntarily appear for deposition in Paris, they would be subject to having their depositions taken in Delaware, or some other mutually agreeable locale. It is also specifically agreed that absent the agreement that Defendants Claude Blandin and Arno Leoni will voluntarily appear for deposition in Paris and that Bruno Blandin and Patrick Blandin will voluntarily appear in Guadeloupe or by Zoom, they would be subject to having their depositions taken in Florida, or some other mutually agreeable locale. The Parties have specifically agreed upon the appearance of Plaintiff Witnesses and Defendants at the times and places set forth in the Notice of Taking Depositions attached as Exhibit “A.” In the event that any or all of Plaintiff Witnesses and Defendants fail to appear for deposition in accordance with the Notice of Taking Deposition, the parties agree to the entry of an order by the U.S. District Court for the Southern District of Florida compelling appearance for deposition in Florida.

4. Waiver of Certain Objections. The parties shall not contest or object to the gathering or admission of evidence in this action on the basis that such gathering or admission of evidence was not done in conformance with the Hague Convention. The parties hereby knowingly and irrevocably waive any such objection. Notwithstanding the foregoing two sentences, the

parties agree that all objections to the gathering or admission of evidence available to them under the Federal Rules of Civil Procedure, the Federal Rules of Evidence, related case law, and any other applicable United States or foreign laws, are hereby expressly preserved.

5. Dispute Resolution; No Inconsistent Positions. As to the depositions of Plaintiff Witnesses and Defendants, the Parties irrevocably submit to the exclusive jurisdiction of the U.S. District Court for the Southern District of Florida for the resolution of any discovery disputes in connection with this action, including any disputes arising in connection with gathering and admission of evidence located, or arising from, outside of the United States. To the extent that, by law, a foreign court has to adjudicate any such dispute, the parties agree not to take any position in such foreign court that would contradict the letter and spirit of this motion.

Dated: March 15, 2023

By: /s/ David W. Marston Jr.
David W. Marston Jr.
Florida Bar No. 111636
david.marston@morganlewis.com
MORGAN, LEWIS & BOCKIUS LLP
600 Brickell Avenue, Suite 1600
Miami, FL 33131
Telephone: 305.415.3303
eFacsimile: 877.432.9652

Troy S. Brown (admitted *pro hac vice*)
troy.brown@morganlewis.com
Margot G. Bloom (admitted *pro hac vice*)
margot.bloom@morganlewis.com
Su Jin Kim (admitted *pro hac vice*)
su.kim@morganlewis.com
Brian Morris (admitted *pro hac vice*)
brian.morris@morganlewis.com
MORGAN, LEWIS & BOCKIUS LLP
1700 Market Street
Philadelphia, PA 19103-2921
Telephone: 215.963.5214
eFacsimile: 215.963.5001

By: /s/ John E. Kirkpatrick
John E. Kirkpatrick, Esq.
Florida Bar No. 386782
Kirkpatrick@mm-pa.com
Joel S. Magolnick, Esq.
Florida Bar No. 776068
magolnick@mm-pa.com
MARKO & MAGOLNICK, P.A.
3001 S.W. 3rd Avenue
Miami, Florida 33129
Telephone: (305) 285-2000
Facsimile: (305) 285-5555

Attorneys for Defendants

Michael J. Ableson (admitted *pro hac vice*)
michael.ableson@morganlewis.com
MORGAN, LEWIS & BOCKIUS LLP
101 Park Avenue
New York, NY 10178-0060
Telephone: 212.309.6000
eFacsimile: 212.309.6001

Attorneys for Plaintiff Zausner Foods Corp.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 15, 2023, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the Service List in the manner specified, either via transmission or Notice of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or pro se parties who are not authorized to receive electronically Notices of Electronic Filing.

/s/ David W. Marston, Jr.

David W. Marston, Jr.

SERVICE LIST

Joel S. Magolnick, Esq.
Marko & Magolnick, P.A.
3001 S.W. 3rd Avenue
Miami, FL 33129
Telephone: 305.285.2000
Facsimile: 305.285.5555

John E. Kirkpatrick
John E. Kirkpatrick & Associates
1242 SW 18th Street
Miami, FL 33145-1632
Telephone: 305.285.4393
kirkpatrick@mm-pa.com

Attorneys for Defendants

Via CM/ECF